

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

CHAUNCEY GIRARD,

Plaintiff,

vs.

**9:15-CV-187
(TJM/DJS)**

BRIAN CHUTTEY, et al.,

Defendants.

**Thomas J. McAvoy,
Sr. U.S. District Judge**

DECISION & ORDER

The Court referred this 42 U.S.C. § 1983 case, which alleges violations of Plaintiff's constitutional rights during his incarceration, to the Hon. Daniel J. Stewart, United States Magistrate Judge, for a Report-Recommendation pursuant to 28 U.S.C. § 636(b) and Local Rule 72.3(c).

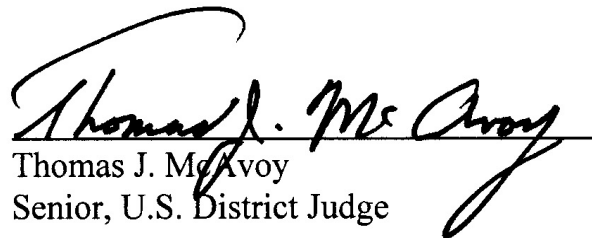
The August 10, 2018, Report-Recommendation, dkt. # 247, recommends that the Defendants' motion for summary judgment be granted. Magistrate Judge Stewart finds that Plaintiff failed to exhaust his administrative remedies on all claims except his due process claim. Magistrate Judge Stewart also concludes that summary judgment is appropriate on the substantive elements of that claim, as well as the other claims for which Plaintiff had failed to exhaust his administrative remedies.

Plaintiff filed timely objections to the Report-Recommendation.¹ When objections to a magistrate judge's Report-Recommendation are filed, the Court makes a "*de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made." See 28 U.S.C. § 636(b)(1). After such a review, the Court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. The judge may also receive further evidence or recommit the matter to the magistrate judge with instructions." Id.

Having reviewed the record *de novo* and considered the issues raised in the Plaintiff's objections, the Court has determined to accept and adopt the recommendation of Magistrate Judge Stewart for the reasons stated in the Report-Recommendation.

Accordingly,

The Report-Recommendation of Magistrate Judge Stewart, dkt. # 247, is hereby **ACCEPTED** and **ADOPTED**. Plaintiff's objections, dkt. #s 252, 254, are hereby **OVERRULED**. Defendants' motion for summary judgment, dkt. # 213, is hereby **GRANTED** and the case is **DISMISSED**. The Clerk of Court is directed to **CLOSE** the case.


Thomas J. McAvoy
Senior, U.S. District Judge

¹Plaintiff filed two documents with the Court, both of which he titled as "appeals" to the Magistrate Judge's decision. See dkt. #s 252, 254. The second document contains the same argument but additional documents. Both dispute Magistrate Judge Stewart's conclusions about the evidence in the case. As Plaintiff is proceeding *pro se*, the Court has determined to treat the filings as objections to the Report-Recommendation.

IT IS SO ORDERED.

DATED: August 31, 2018